

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

STATE OF TEXAS)
)
VS.) CIVIL ACTION NO.
) 1:18-CV-68
UNITED STATES OF AMERICA)
ET AL.)

TELEPHONIC CONFERENCE
BEFORE THE HONORABLE ANDREW S. HANEN
MAY 15, 2018

A P P E A R A N C E S

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10:33:09 1 THE COURT: This is Judge Hanen. We're on
10:33:10 2 the record in B-18-CV-68, State of Texas et al. versus
10:33:14 3 United States et al.

10:33:17 4 Who do I have leading the way for the
10:33:22 5 states, the Plaintiffs?

10:33:25 6 MR. DISHER: Good morning, Your Honor, this
10:33:26 7 is Todd Disher with the Texas Attorney General's Office
10:33:28 8 for the Plaintiff states and with me I have
10:33:31 9 Brantley Starr and then on the line as well I have
10:33:34 10 Adam Biggs.

10:33:34 11 THE COURT: All right. And for the
10:33:35 12 United States, who's on the line?

10:33:38 13 MR. ROBBINS: Good morning, Your Honor, this
10:33:39 14 is Jeffrey Robbins from the Department of Justice Office
10:33:44 15 Immigration Litigation and I have with me Brett Shumate
10:33:46 16 and on the line is Mr. Daniel Hu from the
10:33:48 17 Southern District of Texas.

10:33:49 18 THE COURT: All right. And then I have --
10:33:51 19 even though I have not granted the motion to intervene,
10:33:55 20 do I have someone representing the putative Intervenor?

10:34:01 21 MS. PERALES: Yes, Your Honor. Good
10:34:02 22 morning. This is Nina Perales for the proposed
10:34:06 23 Defendant Intervenor Carlos Perez et al. and with me on
10:34:10 24 the line are Mr. Jack Salmon and Ms. Celina Moreno.

10:34:17 25 THE COURT: Okay. All right, counsel, I

10:34:18 1 just briefly wanted to get us together to do just a
10:34:20 2 couple housekeeping matters, which is one of the reasons
10:34:23 3 I just said let's do this on -- by the phone. And
10:34:27 4 the -- the most important thing is does anybody oppose
10:34:30 5 the intervention?

10:34:33 6 MR. DISHER: Your Honor, this is Todd Disher
10:34:36 7 for the State of Texas and the Plaintiff states, we do
10:34:38 8 not oppose the proposed intervention by the 22
10:34:42 9 individual DACA recipients.

10:34:44 10 THE COURT: All right. Mr. Robbins, what
10:34:46 11 about the folks, the -- the -- from the United States?

10:34:48 12 MR. ROBBINS: We do not oppose, Your Honor.

10:34:50 13 THE COURT: All right. Ms. Perales, your
10:34:51 14 people are in.

10:34:53 15 MS. PERALES: Thank you, Your Honor.

10:34:54 16 THE COURT: All right. Now, what I want to
10:34:59 17 do and just for purposes, the only other pending thing
10:35:03 18 other than the actual request for an injunction is
10:35:09 19 Mr. Shumate for the Government has asked to appear
10:35:11 20 pro hac vice and I'm granting that as well.

10:35:16 21 What I'd like y'all to do so that we have
10:35:18 22 kind of a three-sided case and I didn't -- I could have
10:35:21 23 done this, I guess, by -- by an order but it just --
10:35:25 24 since Ms. Perales' folks weren't officially in yet, I --
10:35:29 25 that's why I did it by phone, I would like the three of

10:35:33 1 of y'all, the three sides, to get together and
10:35:39 2 propose -- come up with an agreed upon schedule. And,
10:35:42 3 obviously, if you can't agree, that's fine and I'll
10:35:45 4 resolve it. But I want to have a hearing at 11:00 on
10:35:52 5 May 30th. And -- and I would like -- if you can agree,
10:35:57 6 I'd like the schedule to me by May 25th. And if you
10:36:04 7 can't agree, then I would like each of the three sides,
10:36:09 8 so to speak, to give me your proposal by May 25th.

10:36:15 9 And -- and that way, on the 30th, we can
10:36:18 10 resolve that. And, so, on the 30th, I -- I'm expecting
10:36:23 11 whoever attends for the whatever side they're
10:36:27 12 representing needs to have full authority to commit.
10:36:34 13 You know, so don't -- don't -- don't show up and say,
10:36:36 14 well, I have to call back home and find out if I can do
10:36:38 15 this or not. So whoever comes, I'm going to assume they
10:36:42 16 have full authority.

10:36:45 17 MR. ROBBINS: Your Honor, this is --

10:36:46 18 THE COURT: Go ahead.

10:36:47 19 MR. ROBBINS: -- Jeffrey Robbins for
10:36:48 20 Defendant. Do you contemplate that being telephonic or
10:36:51 21 in person?

10:36:52 22 THE COURT: No, in person here on the 30th.
10:36:56 23 Now, if there -- somebody has a -- I -- I did that -- I
10:36:58 24 purposefully didn't put it on 29th because I was -- I --
10:37:02 25 I knew, Mr. Robbins, your folks would have to travel and

10:37:06 1 so I didn't want to spoil your Memorial Day weekend. So
10:37:11 2 I'm spoiling the day after Memorial Day for you instead
10:37:16 3 of that. But if -- so let's plan on 11:00 a.m. down
10:37:22 4 here and we'll get a schedule in place. And then I'll
10:37:32 5 take up any other action that we -- that needs to be
10:37:36 6 resolved on that day.

10:37:38 7 But I assume we -- you know, we're going to
10:37:44 8 have a lot of briefing and, if it's like the prior case
10:37:47 9 we had, we'll have a whole bunch of amicus briefs and
10:37:51 10 things like that nature.

10:37:54 11 MS. PERALES: Thank you, Your Honor.

10:37:56 12 MR. DISHER: Your Honor -- Your Honor, this
10:37:57 13 is Todd Disher. One question: In terms of the proposed
10:38:00 14 schedule, are you contemplating a proposed schedule on
10:38:04 15 the briefings of the PI or for the entire litigation
10:38:07 16 going forward?

10:38:08 17 THE COURT: Well, I -- I was thinking just
10:38:10 18 in terms of the preliminary injunction because I -- I
10:38:13 19 figured that was the hot button issue. And then once
10:38:16 20 that was resolved one way or the other, then we could
10:38:19 21 talk about the rest of the case. So I'm -- I'm -- I'm
10:38:23 22 thinking, you know, what are we going to do over the
10:38:25 23 next two to three months.

10:38:29 24 MR. DISHER: Okay. Understood. Thank you.

10:38:32 25 MR. ROBBINS: Your Honor, this is

10:38:33 1 Jeffrey Robbins for Defendants. One additional
10:38:35 2 question: Does -- would -- would the Court consider
10:38:37 3 holding this hearing in -- in Houston; is that a
10:38:41 4 possibility?

10:38:45 5 THE COURT: Yeah, I --

10:38:51 6 MR. ROBBINS: We haven't had a chance to
10:38:53 7 confer with the other parties, obviously, but --

10:38:56 8 THE COURT: Ms. Perales, what's your view on
10:38:59 9 that?

10:38:59 10 MS. PERALES: Your Honor, we're agnostic.
10:39:04 11 We can -- we can appear at the Court's convenience and
10:39:09 12 wherever the Court finds it most convenient.

10:39:13 13 THE COURT: Okay. Mr. Disher, do you care
10:39:22 14 one way or the other?

10:39:23 15 MR. DISHER: No, Your Honor. We're -- we're
10:39:25 16 happy to come to Brownsville or Houston, either way is
10:39:28 17 fine with us.

10:39:28 18 THE COURT: Well, I understand, you know,
10:39:30 19 Houston --

10:39:34 20 MS. PERALES: Your Honor, may I ask a
10:39:35 21 question? This is Nina Perales.

10:39:37 22 THE COURT: You may.

10:39:38 23 MS. PERALES: It -- it sounds like the Court
10:39:40 24 is contemplating entry of the scheduling order for
10:39:43 25 briefing on the motion for preliminary injunction. We

10:39:47 1 have computed that currently the response to the motion
10:39:52 2 for preliminary injunction is May 23rd and -- and that
10:39:56 3 would be after the submission on scheduling would be due
10:40:01 4 on May 25th. I mean, before, I'm sorry, I'm sorry,
10:40:05 5 before. So I was just wondering if the Court is
10:40:08 6 contemplating setting a schedule for briefing on the PI
10:40:13 7 motion that is -- is different from what we're looking
10:40:17 8 at currently?

10:40:18 9 THE COURT: Yes, I am contemplating that.
10:40:20 10 Because I figured y'all would need more time.

10:40:23 11 MS. PERALES: Thank you, Your Honor.

10:40:34 12 MR. ROBBINS: Your Honor, if I may? This is
10:40:35 13 Jeffrey Robbins for Defendants again.

10:40:36 14 THE COURT: Go ahead.

10:40:37 15 MR. ROBBINS: The Defendants would note
10:40:40 16 that we might even be prepared to -- to file our
10:40:42 17 opposition by the end of this week and, so, while we
10:40:45 18 appreciate the Court's allowing the parties an
10:40:47 19 opportunity to talk about the scheduling, at least from
10:40:51 20 Defendant's perspective, we are prepared to have that
10:40:56 21 and confer with regards to scheduling and -- and
10:40:58 22 possibly even file following that confer even sooner
10:41:02 23 than -- than the Court is contemplating.

10:41:04 24 THE COURT: Okay. Here's what I'm going to
10:41:06 25 do. I'm going to hold the hearing on the 30th in

10:41:08 1 Brownsville. And I -- I apologize to make -- for the --
10:41:12 2 you folks that have to travel but -- but it's just a --
10:41:16 3 my schedule is such that I need to be here.

10:41:20 4 In future hearings, if it's more convenient,
10:41:24 5 I'll consider Houston. But let's -- let's plan on then
10:41:32 6 11:00 on the -- on the 30th.

10:41:38 7 And then, Ms. Perales, I'll sign an order
10:41:41 8 admitting your people today.

10:41:44 9 MS. PERALES: Thank you, Your Honor.

10:41:46 10 THE COURT: All right. Thank y'all.

10:41:51 11 MR. ROBBINS: Thank you, Your Honor.

10:41:53 12 MR. DISHER: Thank you, Your Honor.

10:41:53 13 MS. PERALES: Thank you, Your Honor.

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15 REPORTER'S CERTIFICATE

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17 I certify that the foregoing is a correct transcript
18 from the record of proceedings in the above-entitled
19 matter.

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151 Sheila E. Perales
SHEILA E. PERALES, CSR RPR CRR
Exp. Date: Dec. 31, 2018

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